

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ROGER E. CLINE,

Petitioner,

v.

Civil Action No. 5:07CV124
(STAMP)

WILLIAM M. FOX, Warden,

Respondent.

ORDER DENYING CERTIFICATE OF APPEALABILITY

On October 3, 2007, this Court denied the petitioner's habeas corpus application, filed pursuant to 28 U.S.C. § 2254. The Court also notified the petitioner of his right to appeal the judgment of this Court.

On October 10, 2007, the petitioner filed a notice of appeal and request for certificate of appealability. Pursuant to 28 U.S.C. § 2253(c) and Rule 22(b) of the Rules of Appellate Procedure, this Court finds that it is inappropriate to issue a certificate of appealability in this matter. Specifically, the Court finds that the petitioner has not made a "substantial showing of the denial of a constitutional right." See 28 U.S.C. § 2253(c)(2). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that any assessment of constitutional claims by the district court is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. See Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). Upon review of the record, this Court finds that the petitioner has not made the requisite showing. Accordingly, the

petitioner's request for a certificate of appealability is hereby DENIED.

The petitioner may, however, request a circuit judge of the United States Court of Appeals for the Fourth Circuit to issue the certificate.

IT IS SO ORDERED.

The Clerk is DIRECTED to transmit copies of this order to the petitioner and to counsel of record herein. The Clerk is further DIRECTED to send this order and the petitioner's notice of appeal to the United States Court of Appeals for the Fourth Circuit.

DATED: January 2, 2008

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE